

AMENDED IN ASSEMBLY JULY 14, 2003

AMENDED IN SENATE JUNE 3, 2003

AMENDED IN SENATE MAY 12, 2003

AMENDED IN SENATE APRIL 29, 2003

AMENDED IN SENATE APRIL 3, 2003

## SENATE BILL

No. 228

**Introduced by Senator Alarcon  
(Coauthor: Senator Murray)**

February 13, 2003

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~~An act to amend Sections 62.5, 4603.2, and 5402 of, to add Section 3823 to, to repeal Sections 5307.2 and 5307.21 of, and to repeal and add Section 5307.1 of, the Labor Code, An act relating to workers' compensation.~~

### LEGISLATIVE COUNSEL'S DIGEST

SB 228, as amended, Alarcon. ~~Workers' compensation: fraud: fee schedules.~~

*Existing law provides that an injury of an employee arising out of and in the course of employment is generally compensable through the workers' compensation system.*

*This bill would state the intent of the Legislature to improve the workers' compensation system by promoting the efficient delivery of high quality appropriate medical care.*

~~(1) Existing law establishes the Workers' Compensation Administration Revolving Fund as a special account in the State Treasury.~~

Under existing law, money in the fund, which is made up of employer assessments, may be used, upon appropriation by the Legislature, for administration of the workers' compensation program, and may not be used for any other purpose except as determined by the Legislature.

Existing law requires 80% of the costs of administration of the workers' compensation program to be paid for from the General Fund, with the remaining 20% to be paid for from employer assessments, which are deposited into the Workers' Compensation Administration Revolving Fund.

This bill would provide that if the Budget Act or any other statute alters the funding methodology of the fund so that employer assessments account for a greater proportion of funding than appropriations from the General Fund, unless expressly prohibited, a sufficient portion of these funds shall be dedicated to implement the fraudulent claim reporting and medical fee schedule reporting provisions contained in this bill, to permit the adoption of specified staffing and clerical employee recommendations, and to enable the development of a cost-efficient electronic adjudication management system.

(2) Existing law makes it a crime for any person to make false or fraudulent statements, or take certain other actions, with respect to any claim under the workers' compensation system.

This bill would require the Administrative Director of the Division of Workers' Compensation, in coordination with specified persons or entities, to develop procedures to receive and review reports of medical billing fraud and to report these violations of law to specified persons and entities. It would require certain parties to report claims believed to be fraudulent to the administrative director in accordance with these procedures.

(3) Existing law requires the administrative director to adopt an official medical fee schedule, which shall establish reasonable maximum fees paid for medical services provided under the workers' compensation laws. Existing law imposes various requirements concerning the official medical fee schedule.

Existing law requires the administrative director to adopt by July 1, 2003, and revise no less frequently than biennially, an official pharmaceutical fee schedule.

Existing law additionally provides that the administrative director has the sole authority to develop an outpatient surgery facility fee schedule for services not performed under contract.

~~This bill would delete these fee schedule requirements. It would, instead, prohibit charges under this medical fee schedule from exceeding 120% of the fee prescribed for the same item in the applicable Medicare payment system, or, with regard to pharmacy services and drugs, 100% of the fee prescribed by the applicable Medi-Cal payment system.~~

~~This bill would require that, if no Medicare or Medi-Cal payment system applies, as appropriate, the administrative director establish maximum fees, subject to the limitation that the maximum fees paid do not exceed 120% of the fees paid by Medicare for services that require comparable resources or, with regard to pharmacy services and drugs, 100% of the fees paid by Medi-Cal for pharmacy services or drugs that require comparable resources.~~

~~This bill would require that, within the limits established by the bill, the rates or fees established by the medical fee schedule be adequate to ensure a reasonable standard of services and care for injured employees.~~

~~The bill would also impose maximum fee limitations applicable until the adoption of the fee schedule required pursuant to the bill.~~

~~(4) Existing law requires an employer to provide payment to a physician who has provided medical treatment to an injured employee as part of his or her workers' compensation benefits within 60 days after the employer receives a billing statement and other documentation, except as prescribed.~~

~~This bill would reduce this period to 45 days, and would make conforming changes.~~

~~(5) Existing law provides that, if liability is not rejected by the employer within 90 days after the date a claim for workers' compensation benefits is filed by an employee, the injury shall be presumed compensable.~~

~~This bill would reduce this period to 60 days.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes—no. State-mandated local program: no.~~

*The people of the State of California do enact as follows:*

- 1 ~~SECTION 1. Section 62.5 of the Labor Code is amended to~~
- 2 ~~SECTION 1. It is the intent of the Legislature to improve the~~
- 3 ~~workers' compensation system by promoting the efficient delivery~~
- 4 ~~of high quality appropriate medical care.~~

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**All matter omitted in this version of the  
bill appears in the bill as amended in the  
Senate, June 3, 2003 (JR 11)**

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